



4410-15

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Clean Air Act

On May 28, 2020, the Department of Justice lodged a proposed Consent Decree with the United States District Court for the District of Kansas in the lawsuit entitled *United States and State of Kansas, ex rel. Kansas Department of Health and Environment v. HollyFrontier El Dorado Refining LLC*, Civil Action No. 2:20-cv-2270. On June 10, 2020, the Department of Justice lodged a corrected proposed Consent Decree with the United States District Court for the District of Kansas in the same action to correct cross-reference errors in the appendices to the proposed Consent Decree. In the filed Complaint, the United States on behalf of the United States Environmental Protection Agency (“EPA”), and the State of Kansas, on behalf of the Kansas Department of Health and Environment (“KDHE”), allege that HollyFrontier El Dorado Refining LLC (“HollyFrontier”) has violated and, in some instances, continues to violate, the following environmental statutes, regulations, and permits applicable to the petroleum refining industry:

(a) the Clean Air Act (“CAA”), 42 U.S.C. 7401 *et seq.*, specifically Section 110 of the CAA, 42 U.S.C. 7410, and the Kansas State Implementation Plan (“SIP”) issued thereunder; Section 111 of the CAA, 42 U.S.C. 7411, and the New Source Performance Standards (“NSPS”), 40 CFR part 60; Section 112 of the CAA, 42 U.S.C. 7412, and the National Emission Standards For Hazardous Air Pollutants (“NESHAPs”), 40 CFR part 63; Section 112(r)(1) of the CAA, 42 U.S.C. 7412(r)(1); and Section 112(r)(7) of the CAA, 42 U.S.C. 7412(r)(7), and the Risk Management Program, 40 CFR part 68;

(b) the Kansas Air Quality Act (“KAQA”), Kan. Stat. Ann. section 65-3001 *et seq.*, and Kan. Admin. Regs. sections 28-19-302, 28-19-650, and 28-19-20; and

(c) the federally enforceable permits issued to HollyFrontier by KDHE pursuant to Title V of the CAA, 42 U.S.C. 7661-7661f; the KAQA, Kan. Stat. Ann. section 65-3001 *et seq.*; and the regulations promulgated thereunder.

The Consent Decree requires HollyFrontier El Dorado Refining LLC to implement injunctive relief at its petroleum refinery in El Dorado, Kansas, and to pay a \$4 million civil penalty for a covenant-not-to-sue for some of the claims in the filed Complaint. The injunctive relief includes, but is not limited to: (1) installation and operation of a new flare tip; (2) installation of an additional compressor on the flare gas recovery system; and (3) internal and third-party audits. The proposed Consent Decree does not resolve the United States’ claims for civil penalties for the alleged violations of Section 112(r)(1) of the CAA, 42 U.S.C. 7412(r)(1); and Section 112(r)(7) of the CAA, 42 U.S.C. 7412(r)(7), and the Risk Management Program, 40 CFR part 68.

The publication of this notice opens a period for public comment on the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States and State of Kansas, ex rel. Kansas Department of Health and Environment v. HollyFrontier El Dorado Refining LLC*, D.J. Ref. No. 90-5-2-1-08660/1. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by e-mail or by mail:

<i>To submit comments:</i>	<i>Send them to:</i>
By e-mail	pubcomment-ees.enrd@usdoj.gov

By mail	Assistant Attorney General U.S. DOJ – ENRD P.O. Box 7611 Washington, D.C. 20044-7611
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During the public comment period, the proposed Consent Decree may be examined and downloaded at this Justice Department website: <https://www.justice.gov/enrd/consent-decrees>. We will provide a paper copy of the proposed Consent Decree upon written request and payment of reproduction costs. Please mail your request and payment to:

Consent Decree Library
U.S. DOJ – ENRD
P.O. Box 7611
Washington, D.C. 20044-7611

Please enclose a check or money order for \$20.25 (25 cents per page reproduction cost) payable to the United States Treasury. For a paper copy without the exhibits and signature pages, the cost is \$13.00.

Susan M. Akers,
*Assistant Section Chief,
Environmental Enforcement Section,
Environment and Natural Resources Division.*

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